

Notice of Allowability

Application No.

10/748,738

Examiner

Patrick T. Lewis

Applicant(s)

KUCERA ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed February 6, 2007.
2. ☒ The allowed claim(s) is/are 55-63,65-74,76-79,81-90,92-98,101,102 and 105-107.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.


THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 06132007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20070703
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Dr. Patrick T. Lewis
Primary Examiner
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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dean Fanelli on July 9, 2007.

The application has been amended as follows:

In claim 55, line 10, the term "a therapeutic agent" has been deleted and the term ---an anticancer agent--- has been inserted therefor; in lines 11-13, the text ", alkynyl, adenine, thymine, cytosine, guanine, pyrimidine, purine, hypoxanthine, inosine and uracil of R¹¹, R¹², and R¹³ can, optionally, be substituted" has been deleted and the text ---and alkynyl of R¹¹, R¹², and R¹³ is, optionally, substituted--- has been inserted therefor.

In claim 57, line 10, the term "a therapeutic agent" has been deleted and the term ---an anticancer agent--- has been inserted therefor; in lines 11-13, the text ", alkynyl, adenine, thymine, cytosine, guanine, pyrimidine, purine, hypoxanthine, inosine and uracil of R²¹, R²², and R²³ can, optionally, be substituted" has been deleted and the text ---and alkynyl of R²¹, R²², and R²³ is, optionally, substituted--- has been inserted therefor.

In claim 59, line 8, the text "-OH, -SH" has been deleted and the text ---O, S--- has been inserted therefor; in line 9, the term "a therapeutic agent" has been deleted and

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the term ---an anticancer agent--- has been inserted therefor; in lines 10-12, the text “, alkynyl, adenine, thymine, cytosine, guanine, pyrimidine, purine, hypoxanthine, inosine and uracil of R^{31} , R^{32} , and R^{33} can, optionally, be substituted” has been deleted and the text ---and alkynyl of R^{31} , R^{32} , and R^{33} is, optionally, substituted--- has been inserted therefor.

Claim 64 has been canceled.

In claim 69, line 2, the term “a therapeutic agent” has been deleted and the term ---an anticancer agent--- has been inserted therefor.

In claim 74, line 2, the term “a therapeutic agent” has been deleted and the term ---an anticancer agent--- has been inserted therefor.

Claim 75 has been canceled.

In claim 79, line 3, the term “a therapeutic agent” has been deleted and the term ---an anticancer agent--- has been inserted therefor.

Claim 80 has been canceled.

In claim 85, line 3, the term “a therapeutic agent” has been deleted and the term ---an anticancer agent--- has been inserted therefor.

In claim 90, line 1, the term “a therapeutic agent” has been deleted and the term ---an anticancer agent--- has been inserted therefor; in line 4, the term “therapeutic agent” has been deleted and the term ---anticancer agent--- has been inserted therefor.

Claim 91 has been canceled.

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In claim 94, line 1, the term "a therapeutic agent" has been deleted and the term ---an anticancer agent--- has been inserted therefor; in line 4, the term "therapeutic agent" has been deleted and the term ---anticancer agent--- has been inserted therefor.

Claims 99-100 have been canceled.

In claim 102, line 1, the term "a therapeutic agent" has been deleted and the term ---an anticancer agent--- has been inserted therefor.

Claims 103-104 have been canceled.

In claim 107, line 8, the text "-OH, -SH" has been deleted and the text ---O, S--- has been inserted therefor.

2. The following is an examiner's statement of reasons for allowance: the instantly claimed compounds of Formula III, IV and V are not taught or suggested by the prior art. WOODLE et al. WO 96/25147 is the closest prior art. WOODLE teaches liposome compositions and methods for delivering liposome-loadable drugs; however, WOODLE does not teach the instantly claimed compounds.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick T. Lewis whose telephone number is 571-272-0655. The examiner can normally be reached on Monday - Friday 10 am to 3 pm (Maxi Flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Dr. Patrick T. Lewis
Primary Examiner
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